Supreme Court, U. S.
FILED
MAY 1 1978
RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-1390

ALTON BOX BOARD COMPANY, et al.
and RICHARD ELDH,
Petitioners,

v.

UNITED STATES OF AMERICA,
Respondent.

IN RE FOLDING CARTON ANTITRUST LITIGATION—MDL 250

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Brief for Respondent Plaintiffs in Opposition

PERRY GOLDBERG
SPECKS & GOLDBERG, LTD.
180 North La Salle Street
Chicago, Illinois 60603
Chairman, Plaintiffs' Executive Committee

JOSEF D. COOPER
HAZEL WEISER
COOPER & SCARPULLA
300 Montgomery Street, Suite 600
San Francisco, California 94104
Chairman, Plaintiffs' Briefing Committee

(Other counsel listed inside front cover)

SORG PRINTING COMPANY OF CALIFORNIA, 345 FIRST STREET, SAN FRANCISCO 94105

HAROLD E. KOHN
DIANNE M. NAST
KOHN, SAVETT, MARION & GRAF
1214 IVB Building
1700 Market Street
Philadelphia, Pennsylvania 19103

WILLIAM H. FERGUSON
C. DAVID SHEPARD
FERGUSON & BURDELL
1700 Peoples National Bank Building
Seattle, Washington 98171

JOHN A. COCHRANE
COCHRANE & BRESNAHAN
Cochrane & Bresnahan Building
360 Wabasha Street
St. Paul, Minnesota 55102

LOWELL E. SACHNOFF
SACHNOFF, SCHRAGER, JONES & WEAVER
One IBM Plaza
Chicago, Illinois 60611

GUIDO SAVERI
SAVERI & SAVERI
111 Sutter Street
San Francisco, California 94101
Plaintiffs' Executive Committee

JAMES B. SLOAN
MICHAEL P. CONNELLY
SLOAN & CONNELLY
111 West Washington Street
Chicago, Illinois 60602
Plaintiffs' Coordinating Secretary

LEE A. FREEMAN, SR.
LEE A. FREEMAN, JR.
JERROLD E. SALZMAN
FREEMAN, ROTHE, FREEMAN & SALZMAN
One IBM Plaza, Suite 3200
Chicago, Illinois 60611

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UNITED STATES OF AMERICA,
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IN RE FOLDING CARTON ANTITRUST LITIGATION—MDL 250

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

**Brief for Respondent
Plaintiffs in Opposition**

Respondents, plaintiffs in *In Re Folding Carton Antitrust Litigation,* MDL 250 (N.D. Ill.), respectfully oppose the petition for writ of certiorari filed by defendants. This Petition seeks review of the December 1, 1977 Order of the United States Court of Appeals for the Seventh Circuit affirming the District Court's discretionary ruling granting plaintiffs limited access to grand jury testimony which had previously been disclosed to certain counsel for defendants and their corporate officers and managers.

COUNTER STATEMENT OF THE QUESTION PRESENTED

In light of this Court's refusal seven months ago to consider two petitions which presented the identical question advanced herein, should this Court now review the District Court's exercise of its discretion? *Illinois v. Sarbaugh,* 552 F.2d 768 (7th Cir.), *cert. denied* ..... U.S. ....., 54 L.Ed. 2d 174 (1977), and *Texas v. United States Steel Corp.,* 546 F.2d 626 (5th Cir.), *cert. denied* ..... U.S. ....., 54 L.Ed. 2d 174 (1977).

COUNTER STATEMENT OF THE CASE

Defendants' statement of the case outlines the history of the proceedings below. However, defendants' suggestion that the materials ordered released to plaintiffs' counsel had not previously been widely disclosed is incorrect. Following is a chart which identifies the corporate defendants, their officers, and managing agents who examined grand jury testimony released during the criminal action, and lists the grand jury testimony reviewed by each.

PRIOR DISCLOSURE OF GRAND JURY TESTIMONY

Defendant Corporation and Officers and Managers to Whom Grand Jury Transcripts or Excerpts Thereof Were Revealed

WEYERHAEUSER

INTERNATIONAL PAPER COMPANY
- ERNEST J. CURTIS—Regional General Manager, Folding Carton and Label Division
- GEORGE F. WOHLGEMUTH—Regional Sales Manager, Folding Carton and Label Division
- FRED L. BOHLKE—Regional General Manager, Folding Carton and Label Division
- WILLIAM C. WARD—Administrative Operations Sales Manager

GULF STATES

CONSOLIDATED PACKAGING
- MELVIN E. RIECKE—Vice President, Boxboard and Folding Carton Division

ALTON BOX BOARD COMPANY
- PAUL H. WOLFF—Vice President and General Manager, Carton Division

AMERICAN CAN
- DONALD H. WEDIN—Director of Sales & Marketing Dairy and Frozen Food Packaging

CHAMPION INTERNATIONAL

CONTAINER CORPORATION OF AMERICA
- R. HARPER BROWN—President and Chief Operating Officer
- T. M. LITTLE—General Manager, Carton Division
- JACK D. TOVIN—Vice President, Carton Division

Witness' Grand Jury Testimony	Witness' Corporate Affiliation
Meadows	Container Corp.
Watt	Container Corp.
Blankenheim	Diamond
Lambert	St. Regis & Weyerhaeuser
Robertson	Weyerhaeuser, International Paper & Diamond
Hencel	Weyerhaeuser
Shepard	International Paper
Robertson	Weyerhaeuser, International Paper & Diamond
Steele	International Paper, F. N. Burt
Bell	Diamond
Meadows	Container Corp.
Empkie	Container Corp.
Stuberg	Fibreboard
Williams	International Paper
Watt	Container Corp.
Eldh	American Can
DeFazio	International Paper
Meadows	Container Corp.
Robertson	Weyerhaeuser, International Paper & Diamond
Blankenheim	Diamond
Emmert	International Paper
Lambert	St. Regis & Weyerhaeuser
Bell	Diamond
Jewell	Container Corp.
Watt	Container Corp.
Williams	International Paper
Hencel	Weyerhaeuser
Eldh	American Can
Shaffer	Federal Paperboard & Container Corp.
DeFazio	International Paper
Blankenheim	Diamond
Stuberg	Fibreboard
Eldh	American Can
Robertson	Weyerhaeuser, International Paper & Diamond
Blankenheim	Diamond
Lambert	St. Regis & Weyerhaeuser
Watt	Container Corp.
Hall	Container Corp.
Empkie	Container Corp.
Meadows	Container Corp.

PRIOR DISCLOSURE OF GRAND JURY TESTIMONY

Defendant Corporation and Officers and Managers to Whom Grand Jury Transcripts or Excerpts Thereof Were Revealed

DIAMOND INTERNATIONAL
- RICHARD A. BUCKMAN—Sales Manager, N. Central Area
- JAMES A. GAGE—Sales Manager, Chicago Area
- WAYNE GILSDORF—Sales Manager, Central Area
- JAMES A. HANNIGAN—Sales Manager, Detroit Area
- WILLIAM J. KOSLO—Executive Vice President
- ROBERT D. WEYMAN—Sales Manager, Retail Area
- PAUL WILCH, JR.—Division Vice President

FEDERAL PAPERBOARD
- CARL M. DEFARIA—Vice President and Regional General Manager, Folding Carton Division
- CLARK W. FISHER—Vice President and General Manager, Folding Carton Division

FIBREBOARD
- WILLIAM S. HART—Director National Sales, Paperboard and Packaging

HOERNER WALDORF
- JAMES C. DICKERT—Sales Manager, Chicago
- JAMES D. MAHER—Sales Manager, St. Paul
- M. J. WIERSUM—Chief Divisional Officer, Folding Cartons

MICHIGAN CARTON
- ROBERT RYAN—Vice President, Carton Sales

PACKAGING CORPORATION OF AMERICA
- GEORGE V. BAYLY, SR.—Senior Vice President
- CHARLES L. HAMILTON—Vice President, Paperboard Products Area I
- J. A. NEUMAN—Plant General Manager
- ROBERT F. KRAUSE—Vice President, Area II

POTLATCH CORPORATION
- WILLIAM O. BRITTAIN—General Manager, Louisville
- VERN A. KEPFORD—General Manager, National Sales, Packaging Division

ST. REGIS
- PAUL J. VAN KEUREN—General Manager, Folding Carton Division

(This chart was derived from the Government's Log of Grand Jury Transcript Inspected by Defendants and Government's Log of Grand Jury Transcript Quoted in Government's Statements Seen By Defense Counsel attached in the Appendix hereto)

Witness' Grand Jury Testimony	Witness' Corporate Affiliation
Bell	Diamond
Steele	International Paper, F. N. Burt
Lynn	International Paper
Blankenheim	Diamond
Robertson	Weyerhaeuser, International Paper & Diamond
Lambert	St. Regis & Weyerhaeuser
Turvey	Weyco Paperboard Div. Graphic Cards, Chicago
Coleman	Brown Company National Accounts Serv.
Blankenheim	Diamond
Eldh	American Can
Bell	Diamond
Doman	Container Corp.
Gort	Packaging Corp.
Watt	Container Corp.
Turvey	Packaging Corp.
Frey	Packaging Corp.
Mumaw	Packaging Corp.
Gort	Packaging Corp.
Robertson	Weyerhaeuser, International Paper & Diamond
Baker	Container Corp. & Potlatch
Lynn	International Paper
Robertson	Weyerhaeuser, International Paper & Diamond
Stuberg	Fibreboard
Williams	International Paper
Watt	Container Corp.
Eldh	American Can
DeFazio	International Paper
Lambert	St. Regis, Weyerhaeuser
Blankenheim	Diamond
Meadows	Container Corp.
Shaffer	Federal Paperboard and Container Corp.
Bell	Diamond

In addition, at the time of the District Court's ruling permitting plaintiffs access to previously disclosed grand jury testimony, the record reflected that:

(1) Defendants had refused to answer interrogatories requesting identification of meetings at which their employees had the opportunity to discuss the prices of folding cartons, relying on their employees' alleged Fifth Amendment privilege;

(2) Plaintiffs intended to call grand jury witnesses as witnesses at deposition; and

(3) In the three depositions of grand jury witnesses taken by plaintiffs to that date, the deponents had refused to testify asserting alleged Fifth Amendment rights.

Under these circumstances, the District Court found that access to previously disclosed grand jury testimony for "impeachment of a witness, refreshing a witness' recollection as to a matter to which he formerly testified, or testing a witness' credibility" was warranted. (See Pretrial Order No. 18, dated June 30, 1977, attached as Appendix B to Petition for Writ of Certiorari).

SUMMARY OF REASONS FOR DENYING THE WRIT

1. Each of the four Circuit Courts of Appeals (the Second, Fifth, Seventh and Ninth Circuits) which have had an opportunity to apply the standard enunciated by this Court in *United States v. Procter & Gamble,* 356 U.S. 677 (1958), to varying factual situations has ruled that it is within the District Court's sound discretion to permit access to grand jury transcripts. There is no real conflict over an important issue of federal law among the circuits.

2. The decision below, permitting restricted access to grand jury testimony, is consistent with this Court's decision in *United States v. Procter & Gamble, supra,* and was not an abuse of the District Court's discretion.

REASONS FOR DENYING THE WRIT

I.

The Decision of The Seventh Circuit, Affirming the District Court's Restricted Release of Previously Revealed Grand Jury Testimony, Is in Accord with the Decisions of This Court as Applied By Other Circuit Courts of Appeal.

Defendants allege a conflict among the Circuit Courts of Appeal regarding the diminution of the degree of particularized need required to justify release of previously disclosed grand jury testimony. Each of the appellate courts confronted with this issue has applied the standard of *United States v. Procter & Gamble, supra,* in determining whether the district court properly exercised its discretion, under the circumstances of the case, in deciding the propriety of affording access to grand jury testimony. The Seventh, Second and Ninth Circuits, based on the reasoning of this Court in *Procter & Gamble,* agree that once grand jury testimony has been disclosed, a diminished need may be demonstrated by the party seeking access. The Fifth Circuit, while recognizing that there are circumstances which warrant disclosure of grand jury testimony (i.e., to impeach or refresh the recollection of a deposition witness) finds that a general discovery request is insufficient to outweigh the policy reasons underlying grand jury secrecy.

Considering that the decision to provide access to grand jury testimony is one resting on the sound discretion of the district court, the present Petition does not involve important issues of federal law or a real and embarrassing conflict of opinion and authority among the Circuit Courts, and is, therefore, not a proper subject for review. *Layne & Bowler Corporation v. Western Well Works, Inc.,* 261

U.S. 387 (1923); *Rice v. Sioux City Memorial Park Cemetery,* 349 U.S. 70 (1955). Whatever variance may exist among the Circuits is factual, inherent in the application of discretionary rules.

Having denied a petition for writ of certiorari last year in *Illinois v. Sarbaugh, supra,* 54 L.Ed.2d 174 (1977), and in *Texas v. United States Steel Corp., supra,* 54 L.Ed.2d 174 (1977), in factual situations similar to the instant proceeding, the Court should deny this Petition.

II.

It Was Not an Abuse of Discretion for the District Court to Order Release of Grand Jury Transcripts Previously Disclosed to Defendants and Their Corporate Officers and Managers.

United States v. Procter & Gamble, supra, upon which defendants rely, presented the Court with a factual situation where the grand jury had not returned an indictment, and grand jury testimony had been released previously. The Seventh Circuit, in both its affirmance of the District Court's Pretrial Order No. 18 and *State of Illinois v. Sarbaugh, supra,* faced factual situations where grand juries had returned criminal indictments *and* the corporate defendants, their officers and managers had extensive access to grand jury testimony. At the time plaintiffs sought access to grand jury testimony, the criminal proceedings had concluded.

In *Sarbaugh, supra,* 552 F.2d at 775, the Seventh Circuit applied the *Procter & Gamble* standard, finding that the only policy reason for grand jury secrecy which survives the conclusion of criminal proceedings is the need to protect witnesses from retaliation. The *Sarbaugh* court stated that the force of this remaining reason is diminished when disclosure has been made to the corporate employer "who has the greater incentive and power to retaliate."

Id. at 775. In both *Sarbaugh* and the instant proceeding, such disclosures through extensive debriefing, cooperative efforts among corporate counsel, and actual viewing of grand jury testimony by the corporate defendants and their officers and managers outweighed any imagined fear of reprisals.

The *Sarbaugh* court also sought to protect the grand jury witnesses from "potential adverse effects on . . . future relationships with members of the industry." Id. at 775. However, in this proceeding, that policy reason has diminished importance since the revealed testimony was from witnesses other than the corporate defendants' own employees.

The Seventh Circuit found that sufficient need for disclosure may arise "from a litigant's interest in securing accurate and truthful testimony from witnesses", and that if a grand jury witness is scheduled to testify either at trial or by deposition, in the interests of judicial economy, his grand jury testimony should be made available. Id. at 775

The decision of the Court of Appeals for the Second Circuit in *Baker v. United States Steel Corporation,* 492 F.2d 1074 (2nd Cir. 1974), although cautioning the District Court, in dicta, that the dismissal should not be "construed as approval of the standard of 'slight' need formulated by the district court", recognized that "some relaxation" of the particularized need standard might be justified where prior disclosure of grand jury testimony had been made. *Baker, supra,* 492 F.2d at 1079, citing as an example *United States Industries, Inc. v. United States District Court,* 345 F.2d 18, 21 (9th Cir.), cert. denied 382 U.S. 814 (1965)

The Ninth Circuit in both its *U.S. Industries, Inc., supra,* and *Petrol Stops Northwest v. United States,* 1978-1 Trade Cases ¶ 61,935 (9th Cir. 1978) decisions, reasoning from

Procter & Gamble, also relied on a relaxed standard of need where there has been prior disclosure of grand jury testimony.

In concluding that the District Court had not abused its discretion in providing plaintiffs equal access to grand jury testimony in defendants' possession, the Ninth Circuit in *Petrol Stops Northwest v. United States, supra,* 1978-1 Trade Cases at p. 73,995, found that once grand jury secrecy is broken, and the reasons for maintaining secrecy are vitiated, "the party seeking disclosure should not be required to demonstrate a large compelling need."

Defendants point to the Fifth Circuit's opinion in *Texas v. United States Steel Corporation, supra,* to find their alleged conflict among the circuits. The Fifth Circuit decision merely stands for the proposition that access will not be granted as part of general discovery, or upon a mere showing that the other party has had prior access. Since the grand jury testimony was not being exchanged among defendants, the Fifth Circuit reasoned that the underlying reasons for grand jury secrecy were intact. As the Ninth Circuit explained in *Petrol Stops, supra,* 1978-1 Trade Cases at p. 73,955, the Fifth Circuit recognized that "disclosure is proper if the material is needed for purposes such as impeaching a witness or refreshing recollection." The Seventh, Second and Ninth Circuits hold that once grand jury secrecy is breached, a need less than compelling must be demonstrated commensurate with the remaining policy reasons justifying grand jury secrecy.

With grand jury testimony freely available in the offices of counsel for the corporations and their managing employees, no secrecy remains. The Seventh, Second and Ninth Circuits, and various district courts throughout the country have sought to prevent the inequity of denying access to

grand jury materials to one party in a proceeding by weighing the continued need for secrecy against the need demonstrated by the party seeking disclosure. See, e.g., *City of Philadelphia v. American Oil Co.,* Civil Action No. 647-68 (D.N.J. 1971), aff'd *United States v. American Oil Co.,* 456 F.2d 1043 (3rd Cir.), *cert. denied* 409 U.S. 893 (1972); *In re Cement Concrete Block Chicago Area, Grand Jury Proceedings,* 381 F.Supp. 1108 (N.D.Ill. 1974); *In re Toilet Seat Antitrust Litigation,* 1975-2 Trade Cases ¶ 60,557 (E.D. Mich. 1975); *In re Arizona Dairy Products Litigation,* 1976-1 Trade Cases ¶ 60,910 (D.Ariz. 1975); *In re Sugar Antitrust Litigation,* 1976-1 Trade Cases ¶ 60,934 (N.D.Cal. 1976); *State of Connecticut v. General Motors Corp.,* 1974-2 Trade Cases ¶ 75,138 (N.D.Ill. 1974); *Boise City v. Monroc, Inc.,* 1976-2 Trade Cases ¶ 61,178 (D.Idaho 1976).

The United States Government is the only party interested in the policy consideration that future witnesses be uninhibited during their grand jury appearances. It is significant therefore that at the April 22, 1977 pretrial conference the Government stated it had no objection to release of the transcripts in question. Furthermore, the United States supported release of the testimony before the Seventh Circuit.

Plaintiffs demonstrated on the record their need for the previously released grand jury testimony in order to depose witnesses and continue discovery. The District Court and Seventh Circuit recognized that in the facts and circumstances of these actions, where the grand jury testimony was previously revealed and is available to counsel for defendants, little secrecy remains, and it would be highly inequitable to deny plaintiffs access.

CONCLUSION

For the above-stated reasons, plaintiffs submit that the petition for writ of certiorari should be denied.

Dated: April 29, 1978

Respectfully submitted,

PERRY GOLDBERG
SPECKS & GOLDBERG, LTD.
180 North La Salle Street
Chicago, Illinois 60603
Chairman, Plaintiffs' Executive Committee

JOSEF D. COOPER
HAZEL WEISER
COOPER & SCARPULLA
300 Montgomery Street, Suite 600
San Francisco, California 94104
Chairman, Plaintiffs' Briefing Committee

HAROLD E. KOHN
DIANNE M. NAST
KOHN, SAVETT, MARION & GRAF
1214 IVB Building
1700 Market Street
Philadelphia, Pennsylvania 19103

WILLIAM H. FERGUSON
C. DAVID SHEPARD
FERGUSON & BURDELL
1700 Peoples National Bank Building
Seattle, Washington 98171

JOHN A. COCHRANE
COCHRANE & BRESNAHAN
Cochrane & Bresnahan Building
360 Wabasha Street
St. Paul, Minnesota 55102

LOWELL E. SACHNOFF
SACHNOFF, SCHRAGER, JONES & WEAVER
One IBM Plaza
Chicago, Illinois 60611

GUIDO SAVERI
SAVERI & SAVERI
111 Sutter Street
San Francisco, California 94101
Plaintiffs' Executive Committee

JAMES B. SLOAN
MICHAEL P. CONNELLY
SLOAN & CONNELLY
111 West Washington Street
Chicago, Illinois 60602
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LEE A. FREEMAN, SR.
LEE A. FREEMAN, JR.
JERROLD E. SALZMAN
FREEMAN, ROTHE, FREEMAN & SALZMAN
One IBM Plaza, Suite 3200
Chicago, Illinois 60611

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	Criminal Action
ALTON BOX BOARD COMPANY, et al.,	)	No. 76 CR 199
	)	
Defendants.	)	
	)	
IN RE FOLDING CARTON ANTITRUST LITIGATION	)	
	)	
	)	Master File No.
THIS DOCUMENT REFERS TO:	)	MDL 250
	)	
ALL ACTIONS	)	

GOVERNMENT'S LOG OF GRAND JURY
TRANSCRIPT INSPECTED BY DEFENDANTS

The following log requested by the Court during the April 22, 1977 hearing sets forth production of grand jury transcript to defendants in the above-captioned case. The log identifies the date of production, counsel to whom production was made, the defendant(s) he represented, the witness whose transcript was produced, the company or companies that employed him, the date of the witness' grand jury appearance, and the pages of transcript inspected.

DATE	DEFENSE COUNSEL	REPRESENTING	WITNESS	DATE OF APPEARANCE	PAGE
/26/76	Duane M. Kelly	Weyerhaeuser Company	James R. Meadows, Jr. Container Corporation of America	9/30/74	39, line 20- 40, line 7; 42, line 1- 43, line 10; 65, line 14- 66, line 16
			James R. Meadows, Jr.	9/25/75	80, line 19- 81, line 3; 82, line 24- 83, line 6; 110, line 1- 111, line 23
			James R. Meadows, Jr.	12/12/75	2, line 1- 7, line 11
			John P. Watt Container Corporation of America	11/4/75	50, line 2- 50, line 13
			Eugene Blankenheim Diamond International	2/10/75	61, line 1- 62, line 11; 80, line 3- 81, line 7.
			Michael Lambert St. Regis Paper Company and Weyerhaeuser Company	6/25/75	5, line 5- 5, line 19; 7, line 3- 8, line 1
			Michael Lambert	8/19/75	61, line 19- 62, line 11; 64, line 9- 64, line 15

[redacted]

DATE	DEFENSE COUNSEL	REPRESENTING	WITNESS	DATE OF APPEARANCE	PAGE
/26/76	Duane M. Kelly	Weyerhaeuser Company	Alvin J. Robertson International Paper Company; Weyerhaeuser Company and Diamond International	1/28/76	33, line 20-41, line 13; 114, line 5-114, line 11; 157, line 22 162, line 8
			Roman V. Hencel Weyerhaeuser Company	2/6/76	Entire Testimony
			Roman V. Hencel	2/10/76	Entire Testimony
/26/76	John C. Christy, Jr.	Fred L. Bohlke E. J. "Bucky" Curtis George Wohlgemuth	James R. Meadows, Jr.	9/25/75	78-79
			Frederick Empkie Container Corporation of America	8/19/75	92-99
/2/76	John L. Conlon Mark Crane [Messrs. Conlon and Crane received copies of grand jury transcript for these witnesses]	Vern Kepford Messrs. Crane and Conlon represent Gulf States Paper Company in the treble damage action. To our knowledge, the defendant Kepford was never employed by Gulf States.	Robert O. Stuberg Fibreboard Corporation	11/05/75	12-19; 15-16; 35-37
			James E. Williams International Paper Company	2/5/76	16; 165-167; 169-178
			James E. Williams	2/6/76	15-16
			John P. Watt	11/04/75	16-43; 88-90; 120-121; 126
			Richard Eldh American Can Company	10/30/74	22-25
			Richard Eldh	11/6/75	23-27; 62

	DEFENSE COUNSEL	REPRESENTING	WITNESS	DATE OF APPEARANCE	PAGE
76	John L. Conlon Mark Crane	Vern Kepford	Al DeFazio International Paper Company	2/6/75	91-97
/76	Nicholas J. Etten [Mr. Etten received copies of grand jury transcript for these witnesses on 7/13/76 and 11/2/76]	Melvin Riecke	James R. Meadows, Jr.	9/25/75	54; 81-82; 94-109; 119 138; 141
			Alvin J. Robertson	1/28/76	5-6; 18-25; 27-40; 44-61; 84-86; 109-110; 157; 167-169
			Eugene Blankenheim	2/10/76	18-58
			Charles Emmert International Paper Company	12/12/74	4-7
			Michael Lambert	8/19/75-8/20/75	12;15-18; 24-26; 49-52; 61-67; 126
			Howard Bell Diamond International	2/4/76	5-7; 59
			Thomas Jewell Container Corporation of America	10/31/74	19-21

ATE	DEFENSE COUNSEL	REPRESENTING	WITNESS	DATE OF APPEARANCE	PAGE
23/76	Michael H. King [Copies of grand jury transcript for these witnesses were delivered to Mr. King]	Consolidated Packaging Corporation	Thomas Jewell	10/31/74	19-21
			Michael Lambert	8/19/75-8/20/75	12; 15-18; 24-26; 49-52; 61-67; 126
			James R. Meadows, Jr.	9/25/75	54; 82; 94-109; 119; 138; 141
			Alvin J. Robertson	1/28/76	5-6; 10-25; 27-40; 44-61; 84-87; 109-110; 157; 167-169
			Eugene Blankenheim	2/10/76	18-57
			Howard Bell	12/10/75	20-52; 96-102; 108-109
			Howard Bell	2/4/76	5-7; 30; 59
			Charles Emmert	12/12/74	4-5; 7
			John P. Watt	11/4/75	41-42

Σ	DEFENSE COUNSEL	REPRESENTING	WITNESS	DATE OF APPEARANCE	PAGE
4/76	John L. Conlon Mark Crane [Messrs. Conlon and Crane received copies of grand jury transcript for these witnesses]	Vern Kepford	Al DeFazio	2/6/76	Entire Transcript
			James E. Williams	2/5/76-2/6/76	Entire Transcript
			John P. Watt	11/4/75	122-123
14/76	Michael H. King Nicholas Etten	Consolidated Packaging Corporation; Melvin Riecke	Roman V. Hencel	2/6/76	Entire Transcript
			Roman V. Hencel	2/10/76	Entire Transcript
20/76	Michael H. King Nicholas Etten John L. Conlon [copies produced to Messrs. King, Etten and Conlon]	Consolidated Packaging Corporation; Melvin Riecke; Vern Kepford	Eugene Blankenheim	2/10/76	13-101
			Al DeFazio	2/6/76	85-99; 140-145
			Richard Eldh	10/30/74	1-28
			Richard Eldh	10/31/74	1-31
			Richard Eldh	11/6/75	2-86
			Michael Lambert	6/25/75	2-52
			Michael Lambert	8/19/75	2-130
			James R. Meadows, Jr.	10/30/74	2-69
			James R. Meadows, Jr.	9/25/75	2-141
			James R. Meadows, Jr.	12/12/75	2-14

	DEFENSE COUNSEL	REPRESENTING	WITNESS	DATE OF APPEARANCE	PAGE
0/7	Michael H. King Nicholas Etten John Conlon [copies produced to Messrs. King, Etten and Conlon]	Consolidated Packaging Corporation; Melvin Riecke; Vern Kepford	John P. Watt	11/4/75	2-127
			James E. Williams	2/5/76	162-200
			James E. Williams	2/6/76	2-22
ing al	Michael H. King Nicholas J. Etten John L. Conlon [Messrs. King, Etten and Conlon received copies during trial]	Consolidated Packaging Corporation; Melvin Riecke; Vern Kepford	Jonathan Shaffer Federal Paperboard and Container Corporation of America	2/4/76	167-168
ing al	John L. Conlon [Mr. Conlon received copy during trial]	Vern Kepford	Alvin J. Robertson	1/28/76	Entire Transcript

Respectfully submitted,

Dated: May , 1977

D. BRUCE PEARSON

BARBARA A. MCANINCH

Attorneys, United States
Department of Justice
Antitrust Division
Washington, D. C. 20530

GOVERNMENT'S RESPONSE TO PARAGRAPH (D)
OF PLAINTIFFS' DECEMBER 1, 1976 SUBPOENA

NAME OF WITNESS	ADDRESS	COUNSEL	DATE(S) OF APPEARANCE
Donald Addington	4001 Windsor Dallas, Texas	H. Richard Wachtel	6/18/74; 11/6/75
Harold Dumont Austin	Burlingame, California	Malcolm Tuft Brobeck, Phleger & Harrison	6/20/74
George Richard Baker	7410 Springdale Drive Louisville, Kentucky	Timothy Carr Pillsbury, Madison & Sutro	9/23/75
Frank Dean Bartosic	600 Union Street Ashland, Ohio	J. Asa Roundtree	6/25/75
Howard M. Bell	1612 Sherm Drive Middletown, Ohio	Bruce A. Hecker	12/10/75; 2/4/76
George W. Bettke	16 Glen Hill Road Wilton, Connecticut	Glenn McGee	6/17/74
Eugene C. Blankenheim	428 Cedar Lane New Canaan, Connecticut	Gordon Spivack (212-344-8480)	2/10/76
William R. Bleuel	815 Pedham Road Kingsville, Maryland	Henry L. King	2/6/76
Bobby Bowie	19 Main Street Ridgefield, Connecticut	Frederic S. Newman	5/13/75
Richard T. Clark	Sugar Loaf Shores, Florida	Frederic S. Newman	11/4/75

NAME OF WITNESS	ADDRESS	COUNSEL	DATE(S) OF APPEARANCE
Robert A. Coleman	219 West Melody Portage, Michigan	David List	2/25/75; 9/23/75
Robert S. Crook	1279 Cadette Lane Kalamazoo, Michigan	David List	4/1/75
Howard DeFazio	1298 Elizabeth Drive Hamilton, Ohio	Sam Betar (312-236-5517)	2/6/76
Charles DeVol	208 N. Diamond Mill Road Clayton, Ohio	Malcolm Tuft	6/17/74
Herbert M. Dietzen	2004 Wintergreen Mt. Prospect, Illinois	H. Richard Wachtel	4/2/75; 5/14/75
J. Gregg Doman	2069 Vermont Street Rolling Meadows, Illinois	Glenn McGee	6/26/75
W. Duane Duncan	1430 Bayberry Deerfield, Illinois	E. Houston Harsha	12/12/74
Richard Eldh	7 McLain Westport, Connecticut	Henry P. Sailer	10/30/74; 11/6/75
Charles Emmert	403 North Alfred Elgin, Illinois	Henry King	12/12/74
Frederick D. Empkie	600 Surry Lane Glenview, Illinois	Michael V. Corrigan Simpson, Thacher & Bartlett	5/13/75; 8/19/75; 12/9/75
Dempwolf Frey	2960 Claremont Road Shaker Heights, Ohio	Lawrence Byrnes (216-696-4200)	2/4/76

NAME OF WITNESS	ADDRESS	COUNSEL	DATE(S) OF APPEARANCE
Bart A. Gaffney	West 226, North 1619 West North Avenue Waukesha, Wisconsin	H. Richard Wachtel	12/11/74
James R. Gardner	990 Oak Haven Drive Roswell, Georgia	Harold Baker	4/3/75
Gordon Gort	3430 30th Street Grandville, Michigan	E. Houston Harsha	12/9/75
James H. Groome	4725 Milbrook Drive, N.W. Atlanta, Georgia	Harold Baker	12/12/75
Robert L. Hall	6330 Greenwoods Pkwy. Northfield, Ohio	Glenn McGee	5/15/75
Roman V. Hencel	12843 Beaver Dam Road St. Louis, Missouri	Michael Coffield (312-726-4646)	2/6/76; 2/10/76
William R. Hendricks	4190 Vernon Springs Trail Atlanta, Georgia	Harold Baker	10/30/74; 4/3/75
Richard D. Hill	59 Indian Trail Road Barrington, Illinois	Frederic S. Newman	6/19/74; 10/30/74; 12/10/74; 4/1/75
John S. Holm	1731 Meadow Lane Holley Creek, California	Richard Calkins (312-641-2170)	12/12/75
Albert Hoopes	923 Spring Brook Drive Cincinnati, Ohio	Henry King	2/4/76
Donald Hultstrand	2 Robin Hill St. Louis, Missouri	Randolph Wilson Covington & Burling	10/10/75

NAME OF WITNESS	ADDRESS	COUNSEL	DATE(S) OF APPEARANCE
homas O. Jewell	2572 Grand Creek Court, N.W. Atlanta, Georgia	Glenn McGee	10/31/74
erbert B. Jones	1202 Windy Gate Road Towson, Maryland	Timothy Carr	10/31/74
urray Kadish	34 Sunset Trail Sparta, New Jersey	Henry King	2/6/76
aniel E. Kauffman	4490 Powers Ferry Road Atlanta, Georgia	Frederic S. Newman	6/18/74; 11/4/75
ichael S. Lambert	1885 Hilltop Lane Bannockburn, Illinois	H. Richard Wachtel	6/25/75; 8/19/75
ames LaPierre	3599 Village Drive Franklin, Ohio	Murray S. Monroe	6/26/75
ario S. Lencioni	25W075 Merrill Drive Wheaton, Illinois	Irving H. Goldberg	12/12/74; 4/1/75
ichard S. Longnecker	4114 Lakeside Kalamazoo, Michigan	David List	12/11/74; 9/25/75; 12/11/75
enneth W. Lynn	2218 Brockton Drive Fairfield, Ohio	Henry King	12/6/76
Ralph M. Malcolm	1830 East Kane Place Milwaukee, Wisconsin	H. Richard Wachtel	4/2/75
James R. Meadows, Jr.	5950 Oakwood Drive Lisle, Illinois	Glenn McGee	10/30/74; 9/25/75; 12/12/75

NAME OF WITNESS	ADDRESS	COUNSEL	DATE(S) OF APPEARANCE
Garth H. Miller	10664 Adventure Lane Cincinnati, Ohio	Harold Baker	6/17/74
Norman H. Moore	755 Coastline Drive Palo Alto, California	Malcolm Tuft	2/27/75
Robert A. Morris	135 South Elm Street Hinsdale, Illinois	Glen Kuykendall (503-222-5561)	6/20/74
Arthur D. Mumaw	4871 Melrose Drive Wooster, Ohio	E. Houston Harsha	8/20/75
James D. Murphy	5 Elmhurst Avenue Cincinnati, Ohio	Frederic S. Newman	1/17/75; 9/24/75
Minor F. Neff	3265 South Dale Drive Dayton, Ohio	David Neff (616-451-2961)	6/25/75
Lee Nichols	4120 Willowhead Way Naples, Florida	H. Richard Wachtel	10/29/74; 6/25/75
Michael E. Noonan	1040 W. Marietta St., N.W. Atlanta, Georgia	Harold Baker	1/17/75; 6/26/75
Fielder A. Nordstrom	2468 Vineyard Road Movado, California	Malcolm Tuft	2/26/75; 5/14/75
Emerson Noyes	65 East Scott Street Chicago, Illinois	H. Richard Wachtel	2/27/75; 5/14/75
Michael J. O'Malley	113 Warwick Forest Park, Illinois	Glen Kuykendall (503-222-5561)	6/19/74

NAME OF WITNESS	ADDRESS	COUNSEL	DATE(S) OF APPEARANCE
llip K. Reynolds	547 Post Road St. Charles, Illinois	Frederic S. Newman	5/13/75; 9/24/75
in J. Robertson	Rural Route 4 Box 354 Marion, Illinois	William Carroll, Jr. (815-338-1135)	12/9/75; 1/28/76
ton H. Robinson	415 El Centro Road Hillsborough, California	Glenn McGee	4/3/75; 11/5/75
rles Ruble	11167 Valley Springs Pl. North Hollywood, California	Frank DeMarco, Jr. DeMarco, Beral, Greenberg, Thrall & Slusher, Los Angeles, California	5/15/75
E. Schelley	4650 Summerset Avenue Bellview, Washington	Glenn McGee	2/25/75
athan Shaffer	12 Thunder Lake Road Wilton, Connecticut	Frederic S. Newman	2/4/76
ard Shelley	13342 Thornhill Drive St. Louis, Missouri	Karl K. Hoagland	12/11/74
l C. Shepard	9423 Meadowbrook Road Philadelphia, Pennsylvania	None	2/5/76
es A. Smith	181 Longhill Road Great Notch, New Jersey	John Izard	6/17/74; 12/11/75
lliam Smith	8926 Kilkenny Circle Baltimore, Maryland	Henry King	2/5/76

NAME OF WITNESS	ADDRESS	COUNSEL	DATE(S) OF APPEARANCE
Harold P. Steele, Jr.	10189 Winsted Cincinnati, Ohio	Edward Shaw 522 Fifth Avenue New York, New York	8/21/75; 12/11/75
John Stevens	P. O. Box 215 Richton, Michigan	David List	12/12/75
Robert O. Stuberg	2380 S.W. Timberline Drive Portland, Oregon	Michael Anderson (415-392-6320)	1/16/75; 11/5/75
George R. Sutch	6749 82nd Avenue, S.E. Mercer Island, Washington	Glenn McGee	1/16/75
James D. Terrell	70 Manzanita Court Millbrave, California	Malcolm Tuft	6/19/74
Earl G. Turvey	3594 Village East Franklin, Ohio	Bruce A. Hecker	8/21/75
John P. Watt	P. O. Box 265 Valley Forge, Pennsylvania	Glenn McGee	11/4/75
Robert M. Weaver	1316 Rocking Horse Lane La Habra, California	Frederic S. Newman	2/26/75
James E. Williams	26572 Chisholm Court Hayward, California	Sam Betar (312-236-5517)	2/5/76
John L. Williams	5235 Kenbrook, N.W. Atlanta, Georgia	Harold Baker	5/13/75

NAME OF WITNESS	ADDRESS	COUNSEL	DATE(S) OF APPEARANCE
Charles Edward Lowe	1319 Merit Place Louisville, Kentucky	Leon Timmons [Anaconda Aluminum, Louisville, Kentucky]	4/2/75
James Lawrence Smith, II.	3816 Indian View Avenue Maremont, Ohio	William W. Ventress [Procter & Gamble, Cincinnati, Ohio]	5/14/75
William W. Ventress Procter & Gamble	9525 White Gate Lane Indian Hill, Ohio		5/14/75
James A. Hardgrove Brown Company	Sidley & Austin Chicago, Illinois		5/15/75
Ruth A. Ricketts Federal Folding Box Company	2416 Clinton Avenue Berwyn, Illinois	Irving H. Goldberg Goldberg, Weigle, Mallin & Gitles (312-332-5500)	1/7/74

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA v. ALTON BOX BOARD COMPANY, et al., Defendants.	)	Criminal Action No. 76 CR 199
IN RE FOLDING CARTON ANTITRUST LITIGATION THIS DOCUMENT REFERS TO: ALL ACTIONS	)	Master File No. MDL 250

GOVERNMENT'S LOG OF GRAND JURY TRANSCRIPT QUOTED IN GOVERNMENT'S STATEMENTS SEEN BY DEFENSE COUNSEL

The following log requested by the Court during the April 22, 1977 hearing identifies the grand jury testimony quoted in Government's Statements filed with Chief Judge Parsons during the in camera hearings in aggravation and mitigation. Virtually all of the Statements contain summaries and paraphrasing from grand jury testimony of numerous witnesses. Only that testimony which was directly quoted has been listed in the log.

DEFENDANTS	TRANSCRIPT CITED
Alton Box Board Company (read to attorneys for Alton by Chief Judge Parsons)	No specific transcript excerpts
Champion International	Robertson, 1/28/76, Tr. 172
Gerald Adams Mead Packaging	No direct grand jury transcript
John F. Allen Hoerner Waldorf	No direct grand jury testimony
Robert E. Barnett Alton Box Board Company	No direct grand jury testimony
George V. Bayly Packaging Corporation of America	Turvey, 8/21/75, Tr. 35-37; Frey, 2/4/76, Tr. 80-81, 114-115; Robertson, 1/28/76, Tr. 159
Fred L. Bohlke International Paper Company	Shepard, 2/5/76, Tr. 94-95; Robertson, 1/28/76, Tr. 20
William O. Brittain Potlatch Corporation	Baker, 9/23/75, Tr. 93-94, 51; Lynn, 2/6/76, Tr. 75-76
R. Harper Brown Container Corporation of America	Blankenheim, 2/10/76, Tr. 76-79; Lambert, 8/19/75, Tr. 81-85
Richard A. Buckman Diamond International	Bell, 2/4/75, Tr. 44-45, 51 and 52

DEFENDANTS	TRANSCRIPT CITED
H. L. Chorpening Michigan Carton	No direct grand jury testimony
Ernest J. Curtis International Paper Company	Steele, 12/11/75, Tr. 4-5, 7 and 13
Carl DeFaria Federal Paperboard	Coleman, 2/25/75, Tr. 45-49
James C. Dickert Hoerner Waldorf	Bell, 12/9/75, Tr. 103-104
Clark W. Fisher Federal Paperboard	Blankenheim, 2/10/76, Tr. 58-61
James A. Gage Diamond International	Bell, 2/4/76, Tr. 44-45, 48-49
Wayne Gilsdorf Diamond International	Steele, 12/11/75, Tr. 11-12, 25-27; Lynn, 2/6/76, Tr. 73-74
Charles L. Hamilton Packaging Corporation of America	Mumaw, 8/20/75, Tr. 119-120; Gort, 12/9/75, Tr. 28
James A. Hannigan Diamond International	Bell, 2/4/76, Tr. 44-45, 49-50
William S. Hart Fibreboard	Eldh, 11/6/75, Tr. 25-26, 27-28

DEFENDANTS	TRANSCRIPT CITED
William J. Koslo Diamond International	Blankenheim, 2/10/76, Tr. 20-21, 30, 37-39, 41-42, 100; Robertson, 1/28/76, Tr. 54
Robert F. Krause Packaging Corporation of America	Mumaw, 8/20/75, Tr. 119-120
T. M. Little Container Corporation of America	Watt, 11/4/75, Tr. 85-86; Hall, 5/15/75, Tr. 28-29
James D. Maher Boerner Waldorf	Doman, 6/26/75, Tr. 36, 38
J. A. Neuman Packaging Corporation of America	Gort, 12/9/75, Tr. 42-43
Robert Ryan Michigan Carton	Watt, 11/4/75, Tr. 34-35
Jack D. Tovin Container Corporation of America	Lambert, 6/25/75, Tr. 32-33; Empkie, 8/19/75, Tr. 42, 146-148; Meadows, 9/25/75, Tr. 71
Paul J. Van Keuren St. Regis	Bell, 2/4/76, Tr. 41
W. C. Ward International Paper	Robertson, 1/28/76, Tr. 48-49
Donald H. Wedin American Can Company	Stuberg, 11/5/75, Tr. 35; Eldh, 11/9/75, Tr. 29-30

DEFENDANTS	TRANSCRIPT CITED
Robert D. Weyman Diamond International	Lambert, 8/19/75, Tr. 69-75
M. J. Wiersum Boerner Waldorf	Bell, 12/10/75, Tr. 38; Gort, 12/9/75, Tr. 68
Paul Wilch, Jr. Diamond International	Turvey, 8/21/75, Tr. 21-22, 71-78
George F. Wohlgemuth International Paper	Robertson, 1/28/76, Tr. 72-73; Bell, 12/10/75, Tr. 102-103
Paul H. Wolff Alton Box Board Company	Blankenheim, 2/10/76, Tr. 48-51

Respectfully submitted,

Dated: May , 1977

D. BRUCE PEARSON

BARBARA A. MCANINCH

Attorneys, United States
Department of Justice
Antitrust Division
Washington, D. C. 20530